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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,840	09/11/2003	John S. Greeson	2166.07CIP	4829

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EXAMINER

LEVY, NEIL S

ART UNIT PAPER NUMBER

1615

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/659,840	Applicant(s) GREESON ET AL.	
	Examiner NEIL LEVY	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on petition to make special.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

S.U.S. should be spelled out at first appearance in the claim. Further, it is unclear what is meant by "absolute" as opposed to "relative" viscosity.

Claims 2- 5 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what the "essentiality" is intended limitation are some surfactants' permitted, in solution or resperission? Other forms are permitted. Or are the surfactant excluded totally? please explain/amend.

At claim 5; in ert in what sense?

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-19 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Geary -3395990.

A consideration of viscosity shown expression of viscosity in alternate units; specific, relative. Geary utilizes the instant pesticide. Organophosphate and pyrethroide-pyrethrin (col. 1 lines 43-57) the INSTANT Now-oyotemicrois alleged, informalateru designed to reduce host cerimal toxicity, which still being effective. Added component are UV reflective and blocking (col. 2, lines 72, col. 5, line 11-41). The compounds are insert to the pesticides –the compositions stabilize the pesticide against degradation (col. 3, lines 25-29, claim 18). Example 15-B teaches the INSTANT carrier, mineral oil, thus, of the instant viscosity, regardless of how reasired, with a NON – systemic pesticide able to be applied as a film, and with UV absorbing component. Example 12-D teach are organophopshate sprayed on animals; carrier constituter are ethanol/ethylene glycol mix. Surfactants are not required. We would expect volatilization of the ethanol learning the higher viscosity flint two obvious in regard to applicant claim 19.

Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by GARDEN –4902510.

Another viscosity measure of the INSTANT oil carrier –CORN oil inert (stable) to pesticides (Example 7-9), pyrethroids – cypermethrin, pyrethrum. There are no surfactants, erulisfyier or erulisfying agents with the oil based carrier. Mineral oil can

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also be used (col. 3, top) so can organophosphorous pesticides and light reflection/absorbers —coloring agents (lines 13-15, col. 3). Application to animals is by preparation by mixing, and painting, spraying, or pouring animal (col. 3, lines 31-48) to protect against ectoparasites. The pesticides and formulations are the instant, non-systematic actips to the same degree the instant formulation are. Garden expressly provider non toxic formulation (col. 1, lines 30-45).

Claims 1, 2, 5-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Fishbein et al 5104659.

Pyrethriod and organophosphates (col. 7, lines 50-56) are coated in a carrier of inherent viscosities, with UV absorbers – protectants (pigments, colors) but no surfactants (col. 2, line 18-33). Pyrethriods include permethrin, the instant NON-systemic. These compositions meet the claims of the instant, no patentable weight given to intended use. The formulations are applied to animals as coated devices (ear tags, col. 4) and they are of carrier inert (stable) with pesticides.

Claims 1-5, 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Waldstein 4176076).

More are pesticides, bactericid, faugicider (col. 1, bottom/ nontopic to animal col. 2, lines 11-16), with carrier oils inert to pesticide as they are the instant oils (col. 2, bottom, col. 5, lines 9-22, Example 1). Note (Example 1) no surfactant required. These oils are within the instant 100-1200 S.U.S. viscosity; in fact, Example 1 is 300.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEIL LEVY whose telephone number is (571) 272-0619. The examiner can normally be reached on Tuesday through Friday 7 Am to 5:30 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Neil Levy/af
June 3, 2005

NEIL S. LEVY
PRIMARY EXAMINER